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4 MAURICE GODOY,
5 Plaintiff,
6 v.
7 EDMUND GERRY BROWN, et al.,
8 Defendants.

9 Case No. [18-cv-06650-HSG](#)
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13 **ORDER DENYING REQUEST FOR**
14 **APPOINTMENT OF COUNSEL**
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17 Re: Dkt. No. 19
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20 Plaintiff, an inmate at the California Substance Abuse Treatment Facility (“SATF”)
21 proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Now pending before
22 the Court is Plaintiff’s request for appointment of counsel. Dkt. No. 19. Plaintiff argues that the
23 Court should appoint him counsel for the following reasons: it is of fundamental importance to
24 uphold the principles in the federal Constitution; indigent defendants are disadvantaged; he has
25 been designated as disabled under the Americans with Disabilities Act; prison officials have
created “defective” conditions and erected “legal barriers;” Plaintiff lacks legal materials and
access to a functioning law library; he has been handicapped and paralyzed because he has been
housed with mentally ill inmates; he will require the assistance of experts; the case involves claims
of corruption, conspiracy, and racketeering; Plaintiff has neither the resources or ability to
investigate crucial facts; he is likely to be successful; Defendants control all evidence; Plaintiff has
previously shown good cause for extensions of time to meet court deadlines; and there is limited
access to the law library. *Id.*

26 There is no constitutional right to counsel in a civil case unless an indigent litigant may
27 lose his physical liberty if he loses the litigation. *See Lassiter v. Dep’t of Social Svcs.*, 452 U.S.
28 18, 25 (1981); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (no constitutional right to

1 counsel in § 1983 action), *withdrawn in part on other grounds on reh'g en banc*, 154 F.3d 952 (9th
2 Cir. 1998) (en banc). The decision to request counsel to represent an indigent litigant under
3 § 1915 is within “the sound discretion of the trial court and is granted only in exceptional
4 circumstances.” *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of the
5 “exceptional circumstances” of the plaintiff seeking assistance requires an evaluation of the
6 likelihood of the plaintiff’s success on the merits and an evaluation of the plaintiff’s ability to
7 articulate his claims *pro se* in light of the complexity of the legal issues involved. *See Agyeman v.*
8 *Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004). Both of these factors must be
9 viewed together before reaching a decision on a request for counsel under § 1915. *See id.* Neither
10 the need for discovery, nor the fact that the pro se litigant would be better served with the
11 assistance of counsel, necessarily qualify the issues involved as complex. *See Rand*, 113 F.3d at
12 1525 (where plaintiff’s pursuit of discovery was comprehensive and focused, and his papers were
13 generally articulate and organized, district court did not abuse discretion in denying request for
14 counsel); *Wilborn*, 789 F.2d at 1331 (that plaintiff may well have fared better with assistance of
15 counsel not enough).

16 At this early stage it is unclear if Plaintiff has presented cognizable claims. There is
17 currently no operative complaint, the initial complaint has been dismissed with leave to amend. In
18 addition, Plaintiff has ably prosecuted this case thus far, having filed at least three motions seeking
19 various types of relief. Accordingly, Plaintiff’s motion requesting appointment of counsel is
20 DENIED for lack of exceptional circumstances. This denial is without prejudice to the Court’s
21 *sua sponte* appointment of counsel at a future date should the circumstances of this case warrant
22 such appointment.

23 The order terminates Dkt. No. 19.

24 **IT IS SO ORDERED.**

25 Dated: 5/31/2019

26 
27 HAYWOOD S. GILLIAM, JR.
28 United States District Judge